

EXHIBIT A

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**ENDORSED FILED
SAN MATEO COUNTY**

MAR 05 2009

Clerk of the Superior Court
By J. Obaob
DEPUTY CLERK

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11 Attorneys for Plaintiff,
12 JORGE R. QUEZADA, individually and on
behalf of all others similarly situated

14 SUPERIOR COURT OF CALIFORNIA
15 COUNTY OF SAN MATEO
16 UNLIMITED CIVIL JURISDICTION

18 JORGE R. QUEZADA, individually, and
19 on behalf of all others similarly situated,

CASE NO. CIV481284

CLASS ACTION

21 Plaintiffs,
22 v.
23 CON-WAY INC., dba
24 CON-WAY FREIGHT, and
25 DOES 1 through 20, inclusive
26 Defendants.

AMENDED COMPLAINT FOR
COMPENSATION DUE; PENALTIES
PURSUANT TO LABOR CODE SECTION 203;
ITEMIZED WAGE STATEMENT
VIOLATIONS; CONVERSION; UNFAIR
COMPETITION; DECLARATORY RELIEF;
ACCOUNTING; INJUNCTIVE RELIEF; AND
PENALTIES UNDER THE PRIVATE
ATTORNEY GENERAL ACT

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AMENDED COMPLAINT FOR COMPENSATION DUE; PENALTIES PURSUANT TO LABOR CODE
SECTION 203; ITEMIZED WAGE STATEMENT VIOLATIONS; CONVERSION; UNFAIR COMPETITION;
DECLARATORY RELIEF; ACCOUNTING; INJUNCTIVE RELIEF; AND PENALTIES UNDER THE PRIVATE
ATTORNEY GENERAL ACT

1 Plaintiff JORGE R. QUEZADA complains and alleges as follows:

2 I. INTRODUCTION

3 1. This case arises out of unlawful wage payment practices by the Defendants. The
4 Plaintiff Class Members consist of employees of Defendants who, during the four (4) years prior
5 to the filing of this action through the date of trial (Class Period), were improperly compensated
6 for time worked and not promptly paid wages upon termination of their employment.

7 2. The Plaintiff Sub-Class includes those Plaintiff Class Members that ended their
8 employment for the Defendants during the Class Period, but who were not timely paid wages as
9 required by Labor Code Sections 201-202. Such Plaintiff Sub-Class Members are additionally
10 entitled to penalties pursuant to Labor Code Section 203.

11 3. As used herein, the term "Plaintiff" includes JORGE R. QUEZADA, who is the
12 named Plaintiff Class representative; the term "Plaintiff Class" includes the Plaintiff and all
13 Plaintiff Class Members; the term "Class Members" includes the Plaintiff and all Plaintiff Class
14 Members and Plaintiff Sub-Class Members.

15 4. The Plaintiff seeks compensation for work performed and moneys due the Class
16 Members during the "Class Period," which is defined as four years prior to the filing of this
17 action through the trial date, based upon information and belief that the Defendants are
18 continuing, and will continue, their unlawful practices as described herein.

19 II. JURISDICTION AND VENUE

20 5. Pursuant to Code of Civil Procedure Section 395(a), venue is proper in this
21 judicial district because Defendant CON-WAY INC., doing business as CON-WAY FREIGHT,
22 maintains their principal place of business in the County of San Mateo, transacts business in the
23 County of San Mateo, and/or was the employer of the Plaintiff, Plaintiff Class and Sub-Class
24 Members. The non-payment of wages as alleged herein, had a direct affect on employees of the
25 Defendants in the State of California, and in particular, within the County of San Mateo. The
26 monetary claims of the Plaintiffs and Class Members are within the jurisdiction of this court.

III. THE PARTIES

6. Plaintiff JORGE R. QUEZADA is a competent adult, and former employee of CON-WAY INC., dba CON-WAY FREIGHT. Plaintiff was employed during the applicable limitations period by CON-WAY INC.

7. At all relevant times, Defendant CON-WAY INC., was doing business as CON-WAY FREIGHT in the State of California. At all relevant times, Defendant CON-WAY INC., was the employer of Plaintiff and Class Members during the Class Period.

8 8. Plaintiff is informed and believes, and therefore alleges, that at all times mentioned
9 herein, each Defendant engaged in the conduct alleged, was the alter ego, agent, parent company,
10 predecessor, or successor of the other Defendants, acting within the course and scope of such
11 agency/employment or scope, and acting with the knowledge, consent, and authorization of each
12 of the remaining Defendants. All actions of each Defendant were ratified and approved by the
13 other Defendants.

14 9. The true names and capacities, whether individual, corporate, associate, or otherwise,
15 of Defendant DOES 1 through 20, inclusive, are unknown to Plaintiff, who therefore sues said
16 Defendants by such fictitious names. When the true names and capacities of said Defendants have
17 been ascertained, Plaintiff will seek leave of court to amend this Complaint to allege such true
18 names and capacities. Plaintiff is informed and believes and based thereon alleges that each of the
19 Defendants designated as DOES herein is liable in some manner for the acts, occurrences and
20 omissions hereinafter alleged.

IV. GENERAL ALLEGATIONS.

22 10. This class action is brought pursuant to Code of Civil Procedure Section 382. The
23 monetary damages and restitution sought exceed the minimum jurisdictional limits of the Superior
24 Court and will be established according to proof at trial. The monetary damages sought on behalf
25 of the Class and as aggregate class damages exceed those jurisdictional limits as well. The claims
26 of individual Class Members, including Plaintiff, are based on California law and statutes,
27 including the Labor Code, Code of Civil Procedure, and Business and Professions Code.

1 11. The Plaintiff seeks compensation for work performed and moneys due the Class
2 Members during the "Class Period," which is defined as four years prior to the filing of this action
3 through the trial date, based upon information and belief that the Defendants are continuing, and
4 will continue, their unlawful practices as described herein. During all or a portion of the Class
5 Period, the Plaintiff and each member of the Plaintiff Class was employed by Defendants in the
6 State of California.

7 12. During their employment, Plaintiff and Plaintiff Class Members were non-exempt
8 employees covered under one or more statutes, regulations or Industrial Welfare Commission
9 (IWC) Wage Orders, which imposed an obligation on the part of the Defendants, and each of
10 them, to pay lawful wages.

11 13. The Plaintiff and each Plaintiff Class Member performed work for the Defendants,
12 and the Defendants were required to pay the Plaintiff and each Plaintiff Class Member wages, as
13 required by various regulations and statutes, including but not limited to Labor Code Sections 201-
14 204, and the applicable IWC Wage Orders. The Plaintiff and each Plaintiff Class Member
15 performed work for which they were entitled to be compensated.

16 14. Plaintiff brings this action against Defendants for engaging in a uniform policy and
17 systematic scheme of wage abuse against their drivers/sales representatives in California. This
18 scheme involved, inter alia, failing to pay their drivers/sales representatives all wages earned for
19 all hours worked and for denial of compensation for hours worked "off the clock" including, but
20 not limited to, waiting time, inspection time and other compensable time as required under
21 California law.

22 15. During the Class Period, the Plaintiff worked in the position of "driver/sales
23 representative" while employed by Defendants, within the State of California and was not paid for
24 work performed on behalf of Defendants including, but not limited to, waiting time, on-call time,
25 rest time, inspection time and other compensable time as required under California law.

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V. CLASS ACTION ALLEGATIONS

16. Plaintiff brings this action on behalf of himself and all others similarly situated as a class action pursuant to Code of Civil Procedure Section 382. The Class, which the Plaintiff seeks to represent, is composed of and defined as follows:

"All persons who are employed by Defendants in the State of California as a "driver/sales representative" and/or an equivalent position, who performed services for the Defendants in California on or after four years prior to the filing of this action through the date of trial (Class period)."

8 17. Further, Plaintiff brings this action on behalf of himself and all other similarly
9 situated persons in a Plaintiff Sub-Class of the Plaintiff Class, which is composed of and defined
10 as follows:

11 "All persons who are employed by Defendants in the State of California as a
12 driver/sales representative and/or an equivalent position who performed services for
13 the Defendants in California on or after four years prior to the filing of this action
14 through the date of trial (Class period) who did not timely receive all wages due at
termination or resignation of their employment as required by Labor Code
Section 201-202 and are owed penalties pursuant to Labor Code Section 203."

15 18. Plaintiff reserves the right to amend or modify the class descriptions with greater
16 specificity or division into sub-classes or limitation to particular issues.

17 19. This action has been brought and may be maintained as a class action pursuant to
18 Code of Civil Procedure Section 382 because there is a well-defined common interest of many
19 persons and it is impractical to bring them all before the court.

20 a. The Class Members are so numerous that the individual joinder of all Class
21 Members is impractical. While the exact number of Class Members is unknown to the Plaintiff at
22 this time, the Plaintiff is informed and believes there are over 1,000 Class Members. Therefore,
23 joinder of all Class Members is impractical.

24 b. Common questions of law and fact exist as to the Plaintiff and Class
25 Members and predominate over any questions which affect only individual members of the class.
26 These common questions include, but are not limited to:

(1) Whether the Plaintiff and Plaintiff Class Members as defined above, are entitled to wages under the applicable IWC Wage Order(s), regulations and statutes;

(2) Whether the Plaintiff and each Plaintiff Sub-Class Member as defined above, are entitled to penalties under Labor Code Section 203, because such Plaintiff and Plaintiff Sub-Class Members were not timely paid all owed wages at the time their employment ended, as required by Labor Code Sections 201-202;

(3) Whether the Defendants were participants in the unlawful non-payment of wages to the Plaintiff and Class Members, or engaged in other unlawful conduct;

9 (4) The effect upon and the extent of any injuries sustained by the
10 Plaintiff and Class Members and the appropriate type and/or measure of damages;

11 (5) The appropriateness and nature of relief to each Plaintiff and Class
12 Member;

13 (6) The appropriate nature of class-wide equitable relief; and

16 c. Plaintiff's claims are typical of the claims of the Plaintiff Class Members
17 and where applicable, the Plaintiff Sub-Class Members. Plaintiff and all Class Members sustained
18 injuries and damages arising out of Defendants' common course of conduct in violation of the law
19 as alleged herein.

20 d. Plaintiff will adequately and fairly protect the interest of the members of the
21 Plaintiff Class and Plaintiff Sub-Class. Plaintiff was employed by the Defendants at times during
22 the Class Period and is an adequate representative for the Plaintiff Class as he has no interest
23 adverse to the interests of the absent Class Members. Plaintiff has retained legal counsel with
24 substantial experience in civil litigation, employment law and class action litigation.

25 e. A class action is superior to other available means of fair and efficient
26 adjudication of the claims of the Class Members, since joinder of all Class Members is
27 impractical. Class action treatment will allow a large number of similarly situated persons to

prosecute their common claims in a single forum, simultaneously, efficiently, and without the unnecessary duplication of effort and expense that numerous individual actions would cause to such Plaintiffs or to the court system. Further, the damages of many individual Class Members may be relatively small, and the burden and expenses of individual litigation would make it difficult or impossible for individual members of the class to seek and obtain relief, while a class action will serve an important public interest. Further, individual litigation would present the potential for inconsistent or contradictory judgments.

8 20. Plaintiff is unaware of any difficulties that are likely to be encountered in the
9 management of this action that would preclude its maintenance as a class action.

VI. VIOLATIONS ALLEGED

FIRST CAUSE OF ACTION

WAGES DUE UNDER LABOR CODE

13 | (Plaintiff and each Plaintiff Class Member against each Defendant)

14 21. Plaintiff incorporates paragraphs 1 through 20 of this Amended Complaint as if
15 fully alleged herein.

16 22. The Plaintiff and Class Members performed work for the Defendants during the
17 Class Period or engaged in other compensable activities, for which they were not compensated,
18 including, but not limited to, waiting time, on-call time, rest time, inspection time and other
19 compensable time. The Defendants are liable to the Plaintiff and Plaintiff Class Members for
20 wages for time worked, time under control of the Defendants and time for performing services.

21 23. Plaintiff and Plaintiff Class Members seek from the Defendants, and each of them,
22 the payment of all wages earned and accrued during the Class Period.

23 24. Additionally, the Plaintiff and Plaintiff Class Members are entitled to attorneys'
24 fees, interest and costs, pursuant to Labor Code Section 1194 and Section 218.5.

25 Therefore, Plaintiff and Plaintiff Class Members request relief as hereinafter prayed for.

SECOND CAUSE OF ACTION

COMPENSATION DUE FOR WORKING THROUGH REST PERIODS

(Plaintiff and each Class Member against each Defendant)

25. Plaintiff incorporates paragraphs 1 through 20 of this Amended Complaint as if alleged herein.

26. Plaintiff and the Class Members were paid to drive at a rate per mile. Wage Order 9-2001 requires paid rest periods.

27. Plaintiff and Class Members were not paid for their rest periods and are owed wages.

10 Wherefore, Plaintiff and Class Members request relief as prayed for hereinafter.

THIRD CAUSE OF ACTION

LABOR CODE SECTION 203 PENALTIES

(Plaintiff and each Sub-Class Member against each Defendant)

28. Plaintiff incorporates paragraphs 1 through 27 of this Amended Complaint as if fully alleged herein.

16 29. Plaintiff and each Sub-Class Member who ended their employment with the
17 Defendants on or after the commencement of the Class Period were entitled to be promptly paid
18 compensation by the Defendants as required by Labor Code Sections 201-202. Plaintiff and Sub-
19 Class Members were not fully paid all wages due them within the time required by Labor Code
20 Sections 201-202. Accordingly, Plaintiff and Sub-Class Members are entitled to the payment of
21 Labor Code Section 203 penalties, according to proof.

Wherefore, Plaintiff and Plaintiff Sub-Class Members request relief as hereinafter prayed for.

FOURTH CAUSE OF ACTION

FAILURE TO COMPLY WITH ITEMIZED EMPLOYEE WAGE STATEMENT

PROVISIONS (LABOR CODE SECTION 226)

(Plaintiff and each Class Member against each Defendant)

30. Plaintiff incorporates paragraphs 1 through 27 of this Amended Complaint as if fully alleged herein.

7 31. Employers are required by Labor Code Section 226(a) to itemize in wage
8 statements all deductions from payment of wages and to accurately report wages earned and total
9 hours worked by employees such as the Plaintiff and the members of the proposed class, including
10 furnishing each employee an accurate itemized statement in writing showing (1) gross wages
11 earned, (2) total hours worked by the employee, except for any employee whose compensation is
12 solely based on a salary and who is exempt from payment of overtime under subdivision (a) of
13 Section 515 or any applicable order of the Industrial Welfare Commission, (3) the number of
14 piece-rate units earned and any applicable piece-rate if the employee is paid on a piece-rate basis,
15 (4) all deductions, provided that all deductions made on written orders of the employee may be
16 aggregated and shown as one item, (5) net wages earned, (6) the inclusive dates of the period for
17 which the employee is paid, (7) the name of the employee and his or her social security number,
18 except that by January 1, 2008, only the last four digits of his or her social security number or an
19 employee identification number other than a social security number may be shown on the itemized
20 statement, (8) the name and address of the legal entity that is the employer, and (9) all applicable
21 hourly rates in effect during the pay period and the corresponding number of hours worked at each
22 hourly rate by the employee. A copy of the statement or a record of the deductions shall be kept
23 on file by the employer for at least three years at the place of employment or at a central location
24 within the State of California.

32. Defendants violated Labor Code Section 226, in part by failing to pay all wages
owed to Plaintiff and Class Members, not lawfully providing paid rest periods and providing
inaccurate itemized wage statements, causing damage to Plaintiff and Class Members, according

1 to proof.

2 33. Further, pursuant to Labor Code Section 226(g) the Plaintiff and Class Members
3 seek injunctive relief to ensure compliance with Labor Code Section 226, and are entitled to an
4 award of costs and reasonable attorneys' fees.

5 Wherefore, Plaintiff and the Class Members request relief as prayed for hereinafter.

6 **FIFTH CAUSE OF ACTION**

7 **CONVERSION**

8 **(Plaintiff and each Plaintiff Class Member against each Defendant)**

9 34. Plaintiff incorporates paragraphs 1 through 27 of this Amended Complaint as if
10 fully alleged herein.

11 35. The Labor Code and other applicable law provide that wages become the property
12 of employees on the next payday after they are earned. In failing to pay and retaining the wages
13 owed to Plaintiff and Class Members on and after the next payday after they were owed,
14 Defendants wrongfully exercised dominion and control over monies owed to Plaintiff and Class
15 Members.

16 36. The property converted by the Defendants is a specific, identifiable sum.

17 37. As a direct and legal result of Defendants' actions, Plaintiff and Class Members
18 have been damaged in amounts to be proven at trial, and are entitled to such damages.

19 38. Defendants' conduct, in converting the pay owed to Plaintiff and Class Members,
20 pursuant to company practices and policies that Defendants knew violated applicable law, was
21 willful, malicious, oppressive and done with conscious disregard of Plaintiff's and Class
22 Members' rights, entitling Plaintiff and Class Members to punitive damages.

23 Wherefore, the Plaintiff and Class Members request relief as hereinafter prayed for.

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SIXTH CAUSE OF ACTION

UNFAIR COMPETITION ACT

(Plaintiff and each Plaintiff Class Member against each Defendant)

39. Plaintiff incorporates the allegations of paragraphs 1 through 27 of this Amended Complaint as if fully alleged herein.

6 40. The Plaintiff suffered a direct injury as a result of the Defendants' conduct, and
7 brings this action under Code of Civil Procedure Section 382. The deprivation by Defendants of
8 the Plaintiff and Plaintiff Class Members of wages are unlawful business practices within the
9 meaning of Business and Professions Code Section 17200, et seq. including, but not limited to a
10 violation of the applicable Wage Orders, regulations and statutes, is a practice which is otherwise
11 unfair.

12 41. This cause of action is brought under Business and Professions Code Sections
13 17203 and 17204, commonly called the Unfair Competition Act. Under this cause of action and
14 pursuant to Business and Professions Code Section 17208, as a result of the Defendants' unlawful
15 business practice set forth above, Plaintiff and all Class Members seek restitution of money and
16 property due, during the applicable Class Period.

17 42. Further, the Plaintiff requests the violations of the Defendants alleged herein be
18 enjoined, and other equitable relief as this court deems proper.

Wherefore, the Plaintiff and Plaintiff Class Members request relief as follows.

SEVENTH CAUSE OF ACTION

DECLARATORY RELIEF

(Plaintiff and each Plaintiff Class Member against each Defendant)

23 43. Plaintiff incorporates paragraphs 1 through 42 of this Amended Complaint as if
24 fully alleged herein.

25 44. An actual controversy has arisen and exists between the Plaintiff, including the
26 Plaintiff Class and Sub-Class Members on one hand, and the Defendants on the other hand,
27 including but not limited to the following controverted issues:

a) Whether the Defendants willfully and unlawfully failed to pay lawful wages to the Plaintiff and Plaintiff Class Members, and/or deprived the Plaintiff and Sub-Class Members of lawful paid rest periods and itemized wage statements and if so, in what amount the Plaintiff and Plaintiff Class Members are entitled to be paid;

b) Whether the Defendants willfully and unlawfully failed to promptly pay the members of the Sub-Class wages which were owed at the time of their termination of employment with Defendants, and if so, in what amount the Sub-Class Members are entitled to be paid as penalties pursuant to Labor Code Section 203;

c) What amount of pre-judgment interest the Plaintiff and Class Members are entitled to receive from the Defendant.

45. The Plaintiff and Class Members seek adjudication and a declaration of their rights
on the foregoing issues.

13 46. Further, the Plaintiff and Class Members seek entry of declaratory judgment in
14 their favor which declares the practices of the Defendants as herein alleged, to be unlawful, and
15 for this Court to make such orders and provide for recovery of all sums determined by this Court
16 to be owed to the Plaintiff and Class Members by the Defendants, and for other appropriate and
17 just relief.

Wherefore, the Plaintiff and Class Members request relief as hereinafter prayed for.

EIGHTH CAUSE OF ACTION

ACCOUNTING

(Plaintiff and each Plaintiff Class Member against each Defendant)

22 47. Plaintiff incorporates paragraphs 1 through 42 of this Amended Complaint as if
23 fully alleged herein.

24 48. As herein alleged, the Plaintiff and the Class Members are owed wages, penalties,
25 interest and restitution by the Defendants.

26 49. The Plaintiff does not know the exact amount of wages, penalties, interest and
27 restitution due to Plaintiff and Class Members. The Plaintiff is informed and believes and thereon

1 alleges that each of the Defendants possess records from which the amounts of wages, penalties,
2 interest and restitution due may be determined. Therefore, an accounting of the books and records
3 of each Defendant is required.

4 Wherefore, Plaintiff and Class Members request relief as hereinafter prayed for.

5 **NINTH CAUSE OF ACTION**

6 **INJUNCTIVE RELIEF**

7 **(Plaintiff and each Plaintiff Class Member against each Defendant)**

8 50. Plaintiff incorporates paragraphs 1 through 42 of this Amended Complaint as if
9 fully alleged herein.

10 51. The Defendants, and each of them, have in the past, and will continue to do so in
11 the future, unless enjoined, engage in the unlawful practice of not paying wages, not providing
12 paid rest periods, not providing lawful wage statements under Labor Code Section 226, and not
13 promptly paying wages upon termination of employment as required by Labor Code Sections 201-
14 203.

15 52. The Plaintiff and Class Members have, and will continue to be, injured and
16 damaged by the Defendants' continued unlawful practices alleged above, and the Plaintiff and
17 Class Members, who have no adequate remedy at law, will be irreparably harmed by the
18 continuation of such unlawful practices of the Defendants.

19 53. Because the Defendant has acted unlawfully as alleged above, and will continue to
20 do so in the absence of relief by this court, preliminary and permanent injunctive relief is
21 appropriate, enjoining the Defendant and their agents from practicing such unlawful practices.

22 Wherefore, Plaintiff and the Class Members request relief as hereinafter prayed for.

23 **TENTH CAUSE OF ACTION**

24 **UNJUST ENRICHMENT**

25 **(Plaintiff and each Plaintiff Class Member against each Defendant)**

26 54. Plaintiff incorporates paragraphs 1 through 22 of this Amended Complaint as if
27 fully alleged herein.

1 55. Defendants were unjustly enriched by the work performed by the Plaintiff and Class
2 Members in that Defendants were compensated by third parties for work performed by the Plaintiff
3 and Class Members, yet there was a material failure in the consideration received by Plaintiff and
4 Class Members, in that they were not compensated by the Defendants for all work performed for
5 the benefit of the Defendants, including performing pre and post trip inspections, standby time and
6 on-call time, as well as not being compensated for their rest time.

7 56. It would be unjust to allow the Defendants to be enriched at the expense of the
8 Plaintiff and Class Members and the Plaintiff and Class Members are entitled to the reasonable
9 value of their services.

10 Wherefore, Plaintiffs request relief as hereinafter requested.

11 ELEVENTH CAUSE OF ACTION

12 **LABOR CODE § 2698 et seq. PRIVATE ATTORNEY GENERAL ACT**

13 **(Plaintiff and each Plaintiff Class member against each Defendant)**

14 57. Plaintiff incorporates the allegations of paragraphs 1 through 33 of this Amended
15 Complaint as if fully alleged herein.

16 58. Plaintiff and Class Members are aggrieved employees as defined in Labor Code
17 Section 2699(a). They bring this cause on behalf of themselves and other current or former
18 employees affected by the labor law violations alleged in this Complaint.

19 59. Defendants committed the following violations of the California Labor Code
20 against Plaintiffs, and, on information and belief, against other current or former employees while
21 they were and are employed by Defendants: (1) Plaintiff and Class Members were not provided
22 accurate and lawfully itemized pay statements as required by California Labor Code Section 226;
23 (2) Plaintiff and Class Members were not provided paid rest periods as required under California
24 Labor Code Section 226.7; (3) Plaintiff and Class Members were not paid timely upon termination
25 of their employment and are owed Labor Code Section 203 penalties; (4) Plaintiff and Class
26 Members worked off the clock and are entitled to wages due; (5) And, Plaintiff and class members

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28 AMENDED COMPLAINT FOR COMPENSATION DUE; PENALTIES PURSUANT TO LABOR CODE
SECTION 203; ITEMIZED WAGE STATEMENT VIOLATIONS; CONVERSION; UNFAIR COMPETITION;
DECLARATORY RELIEF; ACCOUNTING; INJUNCTIVE RELIEF; AND PENALTIES UNDER THE PRIVATE
ATTORNEY GENERAL ACT

were not paid for all hours worked.

60. Pursuant to Labor Code Section 2699(a), Plaintiff seeks to recover civil penalties, as otherwise provided by statute, for which Defendants are liable as a result of their violations of the Labor Code in an amount to be proven at trial.

Wherefore, the Plaintiff and Class Members request relief as follows:

VII. PRAYER FOR RELIEF

Wherefore, Plaintiff, on his own behalf and on behalf of the Plaintiff Class and Sub Class
prays as follows:

a. That the court determine that this action may be maintained as a Class Action and certify the Plaintiff Class and Sub Class on the First through Sixth Causes of Action;

b. That the court determine that the failure of the Defendants to pay wages and provide rest periods to the Plaintiff and each Plaintiff Class Member be adjudged and decreed to violate the applicable IWC Wage Orders, regulations and statutes;

c. That judgment be entered for compensation for the Plaintiff and Plaintiff Class Members for wages on the First Cause of Action, according to proof;

d. That judgment be entered for Plaintiff and Plaintiff Class Members for compensation and damages as appropriate on the Second Cause of Action, according to proof

e. That judgment be entered for Plaintiff and Plaintiff Class Members for penalties on the Third Cause of Action, according to proof;

f. That judgment be entered for Plaintiff and Plaintiff Class Members for damages and/or penalties on the Fourth Cause of Action, according to proof;

g. That judgment be entered for Plaintiff and Plaintiff Class Members for damages on the Fifth Cause of Action, according to proof;

h. That the Defendants be found to have engaged in unfair competition in violation of Business and Professions Code Section 17200;

i. That the Defendants be ordered and enjoined to pay restitution to the Plaintiff and

1 Plaintiff Class Members, due to the Defendants' unlawful and unfair competition, including
2 wrongfully withheld compensation, and interest thereon, pursuant to Business and Professions
3 Code Section 17203 and 17204, on the Sixth Cause of Action according to proof;

4 j. That judgment be entered for declaratory relief on the Seventh Cause of Action,
5 according to proof;

6 k. That judgment be entered for accounting on the Eighth Cause of Action, according
7 to proof;

8 l. That judgment be entered for injunctive relief on the Ninth Cause of Action,
9 according to proof;

10 m. That judgment be entered for the reasonable value of the Plaintiff's and Class
11 Members' services on the Tenth Cause of Action, according to proof;

12 n. That judgment be entered for penalties under the Private Attorney General Act on
13 the Eleventh Cause of Action, according to proof;

14 o. That Plaintiff and class be awarded attorneys' fees and costs pursuant to statute,
15 including but not limited to, Labor Code Sections 218.5, 226, 1194, and 2699.

16 p. General, Special and Punitive damages as entitled and all other relief as
17 appropriate;

18 q. Otherwise determine the appropriate remedy to compensate the Plaintiff and
19 Class Members as required to promote fairness and justice, including but not limited to
20 establishing procedures for compensation, compensation amounts and fluid recovery if
21 appropriate;

22 r. Prejudgment interest;

23 s. Any other relief as this court deems proper.

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1 Date: March 3, 2009
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WESTRUP KLICK, LLP
LABOR LAW OFFICE, P.C.

Michael L. Carver
Attorney for Plaintiff
JORGE R. QUEZADA, individually and on behalf of
all others similarly situated

PROOF OF SERVICE PAGE

No defendants have appeared. Service not necessary pursuant to CCP §1014. This Document will be served pursuant to CCP 413.10 et seq.



CORPORATION SERVICE COMPANY

MAR 18 2009

Jennifer W. Pileggi

Notice of Service of Process

CZG / ALL
 Transmittal Number: 6475573
 Date Processed: 03/17/2009

Primary Contact: Jennifer Pileggi
 Con-way Inc.
 2885 Campus Drive
 San Mateo, CA 94403

Copy of transmittal only provided to: Lonika Arceneaux

Entity:	Con-way Inc. Entity ID Number 0184387
Entity Served:	Con-Way Inc., dba Con-Way Freight
Title of Action:	Jorge R. Quezada vs. Con-Way Inc., dba Con-Way Freight
Document(s) Type:	Amended Complaint/Petition
Nature of Action:	Labor / Employment
Court:	San Mateo County Superior Court, California
Case Number:	CIV481284
Jurisdiction Served:	California
Date Served on CSC:	03/16/2009
Answer or Appearance Due:	Other/NA
Originally Served On:	CSC
How Served:	Personal Service
Plaintiff's Attorney:	Michael L. Carver (530) 891-8503

Information contained on this transmittal form is for record keeping, notification and forwarding the attached document(s). It does not constitute a legal opinion. The recipient is responsible for interpreting the documents and taking appropriate action.

To avoid potential delay, please do not send your response to CSC
 CSC is SAS70 Type II certified for its Litigation Management System.
 2711 Centerville Road Wilmington, DE 19808 (888) 690-2882 | sop@cscinfo.com

NOTICE OF CASE MANAGEMENT CONFERENCE

Jorge R. Puezada

ENDORSED FILED
SAN MATEO COUNTY

vs.

Con-way Inc.; Et Al ^{Clerk of the Superior Court}
A. D'Agostino
DEPUTY CLERK

FEB 17 2009

Case No. CV 481284

Date: 02/25/2009

Time: 9:00 a.m.

Dept. 1 on Tuesday & Thursday
Dept. — on Wednesday & Friday

You are hereby given notice of your Case Management Conference. The date, time and department have been written above.

1. In accordance with applicable California Rules of Court and Local Rules 2.3(d)1-4 and 2.3(m), you are hereby ordered to:
 - a. Serve all named defendants and file proofs of service on those defendants with the court within 60 days of filing the complaint (CRC 201.7).
 - b. Serve a copy of this notice, Case Management Statement and ADR Information Sheet on all named parties in this action.
 - c. File and serve a completed Case Management Statement at least 15 days before the Case Management Conference [CRC 212(g)]. Failure to do so may result in monetary sanctions.
 - d. Meet and confer, in person or by telephone, to consider each of the issues identified in CRC 212(f) no later than 30 days before the date set for the Case Management Conference.

2. If you fail to follow the orders above, you are ordered to show cause why you should not be sanctioned. The Order To Show Cause hearing will be at the same time as the Case Management Conference hearing. Sanctions may include monetary, evidentiary or issue sanctions as well as striking pleadings and/or dismissal.

3. Continuances of case management conferences are highly disfavored unless good cause is shown.
4. Parties may proceed to an appropriate dispute resolution process ("ADR") by filing a Stipulation To ADR and Proposed Order (see attached form.). If plaintiff files a Stipulation To ADR and Proposed Order electing to proceed to judicial arbitration, the Case Management Conference will be taken off the court calendar and the case will be referred to the Arbitration Administrator. If plaintiffs and defendants file a completed stipulation to another ADR process (e.g., mediation) 10 days prior to the first scheduled case management conference, the case management conference will be continued for 90 days to allow parties time to complete their ADR session. The court will notify parties of their new case management conference date.
5. If you have filed a default or a judgment has been entered, your case is not automatically taken off the Case Management Conference Calendar. If "Does", "Roes", etc. are named in your complaint, they must be dismissed in order to close the case. If any party is in bankruptcy, the case is stayed only as to that named party.
6. You are further ordered to appear in person* (or through your attorney of record) at the Case Management Conference noticed above. You must be thoroughly familiar with the case and fully authorized to proceed.
7. The Case Management judge will issue orders at the conclusion of the conference that may include:
 - a. Referring parties to voluntary ADR and setting an ADR completion date;
 - b. Dismissing or severing claims or parties;
 - c. Setting a trial date.
8. The Case Management judge may be the trial judge in this case.

For further information regarding case management policies and procedures, see the court website at www.sanmateocourt.org.

* Telephonic appearances at case management conferences are available by contacting CourtCall, LLC, an independent vendor, at least 5 business days prior to the scheduled conference (see attached CourtCall information).

**SUMMONS
(CITACION JUDICIAL)**

**NOTICE TO DEFENDANT:
(AVISO AL DEMANDADO):**

CON-WAY INC,
dba CON-WAY FREIGHT, and
DOES 1 through 20, inclusive

**YOU ARE BEING SUED BY PLAINTIFF:
(LO ESTA DEMANDANDO EL DEMANDANTE):**

JORGE R. QUEZADA, individually and on
behalf of all others similarly situated

SUM-100

FOR COURT USE ONLY
(SOLO PARA USO DE LA CORTE)

**ENDORSED FILED
SAN MATEO COUNTY**

FEB 17 2009

Clerk of the Superior Court
By A. Deglantoni
DEPUTY CLERK

You have 30 CALENDAR DAYS after this summons and legal papers are served on you to file a written response at this court and have a copy served on the plaintiff. A letter or phone call will not protect you. Your written response must be in proper legal form if you want the court to hear your case. There may be a court form that you can use for your response. You can find these court forms and more information at the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), your county law library, or the courthouse nearest you. If you cannot pay the filing fee, ask the court clerk for a fee waiver form. If you do not file your response on time, you may lose the case by default, and your wages, money, and property may be taken without further warning from the court.

There are other legal requirements. You may want to call an attorney right away. If you do not know an attorney, you may want to call an attorney referral service. If you cannot afford an attorney, you may be eligible for free legal services from a nonprofit legal services program. You can locate these nonprofit groups at the California Legal Services Web site (www.lawhelpcalifornia.org), the California Courts Online Self-Help Center (www.courtinfo.ca.gov/selfhelp), or by contacting your local court or county bar association.

Tiene 30 DIAS DE CALENDARIO después de que le entreguen esta citación y papeles legales para presentar una respuesta por escrito en esta corte y hacer que se entregue una copia al demandante. Una carta o una llamada telefónica no lo protegen. Su respuesta por escrito tiene que estar en formato legal correcto si desea que procesen su caso en la corte. Es posible que haya un formulario que usted pueda usar para su respuesta. Puede encontrar estos formularios de la corte y más información en el Centro de Ayuda de las Cortes de California (www.courtinfo.ca.gov/selfhelp/espanol), en la biblioteca de leyes de su condado o en la corte que le quede más cerca. Si no puede pagar la cuota de presentación, pida al secretario de la corte que le dé un formulario de exención de pago de cuotas. Si no presenta su respuesta a tiempo, puede perder el caso por incumplimiento y la corte le podrá quitar su sueldo, dinero y bienes sin más advertencia.

Hay otros requisitos legales. Es recomendable que llame a un abogado inmediatamente. Si no conoce a un abogado, puede llamar a un servicio de remisión a abogados. Si no puede pagar a un abogado, es posible que cumpla con los requisitos para obtener servicios legales gratuitos de un programa de servicios legales sin fines de lucro. Puede encontrar estos grupos sin fines de lucro en el sitio web de California Legal Services, (www.lawhelpcalifornia.org), en el Centro de Ayuda de las Cortes de California, (www.courtinfo.ca.gov/selfhelp/espanol) o poniéndose en contacto con la corte o el colegio de abogados locales.

The name and address of the court is:
(El nombre y dirección de la corte es):

SUPERIOR COURT OF SAN MATEO COUNTY
Hall of Justice
400 County Center

CASE NUMBER
(Número del Caso) **481284**

Redwood City, CA 94063-1655

The name, address, and telephone number of plaintiff's attorney, or plaintiff without an attorney, is:

(El nombre, la dirección y el número de teléfono del abogado del demandante, o del demandante que no tiene abogado, es):

Michael L. Carver
1600 Humboldt Road, Suite 3
(530) 891-8503

LABOR LAW OFFICE, A.P.C.
Chico, CA 95928

DATE:

(Fecha)

FEB 17 2009**JOHN C. FITTON**Clerk, by
(Secretario)**A. DEGLANTONI**Deputy
(Adjunto)

(For proof of service of this summons, use Proof of Service of Summons (form POS-010).)

(Para prueba de entrega de esta citación use el formulario Proof of Service of Summons, (POS-010)).

NOTICE TO THE PERSON SERVED: You are served

1. as an individual defendant.

2. as the person sued under the fictitious name of (specify):

3. on behalf of (specify):

under:

- CCP 416.10 (corporation)
- CCP 416.20 (defunct corporation)
- CCP 416.40 (association or partnership)
- other (specify):

- CCP 416.60 (minor)
- CCP 416.70 (conservatee)
- CCP 416.90 (authorized person)

4. by personal delivery on (date):

